

SENATE BILL 539

M3

11r2385
CF HB 57

By: ~~Senator Colburn~~ **Senators Colburn, Simonaire, and Reilly**

Introduced and read first time: February 4, 2011

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2011

CHAPTER _____

1 AN ACT concerning

2 **Environment – Bay Restoration Fund – Authorized Uses**

3 FOR the purpose of authorizing certain fee revenue collected for the Bay Restoration
4 Fund to be used to pay the cost of connecting properties served by onsite sewage
5 disposal systems to certain existing municipal wastewater facilities under
6 certain circumstances; establishing certain conditions for certain funding of
7 certain costs; and generally relating to authorized uses of the Bay Restoration
8 Fund.

9 BY repealing and reenacting, without amendments,
10 Article – Environment
11 Section 9–1605.2(a) and (h)(1)
12 Annotated Code of Maryland
13 (2007 Replacement Volume and 2010 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Environment
16 Section 9–1605.2(h)(2) and (3)
17 Annotated Code of Maryland
18 (2007 Replacement Volume and 2010 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Environment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 9-1605.2.

2 (a) (1) There is a Bay Restoration Fund.

3 (2) It is the intent of the General Assembly that the Bay Restoration
4 Fund be:

5 (i) Used, in part, to provide the funding necessary to upgrade
6 any of the wastewater treatment facilities that are located in the State or used by
7 citizens of the State in order to achieve enhanced nutrient removal where it is
8 cost-effective to do so; and

9 (ii) Available for treatment facilities discharging into the
10 Atlantic Coastal Bays or other waters of the State, but that priority be given to
11 treatment facilities discharging into the Chesapeake Bay.

12 (3) The Bay Restoration Fund shall be maintained and administered
13 by the Administration in accordance with the provisions of this section and any rules
14 or program directives as the Secretary or the Board may prescribe.

15 (4) There is established a Bay Restoration Fee to be paid by any user
16 of a wastewater facility, an onsite sewage disposal system, or a holding tank that:

17 (i) Is located in the State; or

18 (ii) Serves a Maryland user and is eligible for funding under
19 this subtitle.

20 (h) (1) With regard to the funds collected under subsection (b)(1)(i), from
21 users of an onsite sewage disposal system or holding tank that receive a water bill, (ii),
22 and (iii) of this section, beginning in fiscal year 2006, the Comptroller shall:

23 (i) Establish a separate account within the Bay Restoration
24 Fund; and

25 (ii) Disburse the funds as provided under paragraph (2) of this
26 subsection.

27 (2) The Comptroller shall:

28 (i) Deposit 60% of the funds in the separate account to be used
29 for:

30 1. Subject to paragraph (3) of this subsection, with
31 priority first given to failing systems and holding tanks located in the Chesapeake and
32 Atlantic Coastal Bays Critical Area and then to failing systems that the Department

1 determines are a threat to public health or water quality, grants or loans for up to
2 100% of:

3 A. The costs attributable to upgrading an onsite sewage
4 disposal system to the best available technology for the removal of nitrogen;

5 B. The cost difference between a conventional onsite
6 sewage disposal system and a system that utilizes the best available technology for the
7 removal of nitrogen;

8 C. The cost of repairing or replacing a failing onsite
9 sewage disposal system with a system that uses the best available technology for
10 nitrogen removal; [or]

11 D. The cost, up to the sum of the costs authorized under
12 item 1B of this item for each individual system, of replacing multiple onsite sewage
13 disposal systems located in the same community with a new community sewerage
14 system that is owned by a local government and that meets enhanced nutrient
15 removal standards; **OR**

16 **E. THE COST, UP TO THE SUM OF THE COSTS**
17 **AUTHORIZED UNDER ITEM 1C OF THIS ITEM FOR EACH INDIVIDUAL SYSTEM, OF**
18 **CONNECTING A PROPERTY USING AN ONSITE SEWAGE DISPOSAL SYSTEM TO AN**
19 **EXISTING MUNICIPAL WASTEWATER FACILITY THAT IS ACHIEVING ENHANCED**
20 **NUTRIENT REMOVAL LEVEL TREATMENT.**

21 2. The reasonable costs of the Department, not to exceed
22 8% of the funds deposited into the separate account, to:

23 A. Implement an education, outreach, and upgrade
24 program to advise owners of onsite sewage disposal systems and holding tanks on the
25 proper maintenance of the systems and tanks and the availability of grants and loans
26 under item 1 of this item;

27 B. Review and approve the design and construction of
28 onsite sewage disposal system or holding tank upgrades;

29 C. Issue grants or loans as provided under item 1 of this
30 item; and

31 D. Provide technical support for owners of upgraded
32 onsite sewage disposal systems or holding tanks to operate and maintain the upgraded
33 systems; and

1 (ii) Transfer 40% of the funds to the Maryland Agriculture
2 Water Quality Cost Share Program in the Department of Agriculture in order to fund
3 cover crop activities.

4 (3) (i) Funding for the costs identified in paragraph (2)(i)1 of this
5 subsection shall be provided in the following order of priority:

6 1. For owners of all levels of income, the costs identified
7 in paragraph (2)(i)1A and B of this subsection; and

8 2. For low-income owners, as defined by the
9 Department, the costs identified in paragraph (2)(i)1C of this subsection:

10 A. First, for best available technologies for nitrogen
11 removal; and

12 B. Second, for other wastewater treatment systems.

13 (ii) Funding for the costs identified in paragraph (2)(i)1D of this
14 subsection may be provided if:

15 1. The environmental impact of the onsite sewage
16 disposal system is documented by the local government and confirmed by the
17 Department;

18 2. It can be demonstrated that:

19 A. The replacement of the onsite sewage disposal system
20 with a new community sewerage system is more cost effective for nitrogen removal
21 than upgrading each individual onsite sewage disposal system; or

22 B. The individual replacement of the onsite sewage
23 disposal system is not feasible; and

24 3. The new community sewerage system will only serve
25 lots that have received a certificate of occupancy, or equivalent certificate, on or before
26 October 1, 2008.

27 **(III) FUNDING FOR THE COSTS IDENTIFIED IN PARAGRAPH**
28 **(2)(i)1E OF THIS SUBSECTION MAY BE PROVIDED ONLY IF ALL OF THE**
29 **FOLLOWING CONDITIONS ARE MET:**

30 **1. THE ENVIRONMENTAL IMPACT OF THE ONSITE**
31 **SEWAGE DISPOSAL SYSTEM IS DOCUMENTED BY THE LOCAL GOVERNMENT AND**
32 **CONFIRMED BY THE DEPARTMENT;**

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2. IT CAN BE DEMONSTRATED THAT:

A. THE REPLACEMENT OF THE ONSITE SEWAGE DISPOSAL SYSTEM WITH SERVICE TO AN EXISTING MUNICIPAL WASTEWATER FACILITY THAT IS ACHIEVING ENHANCED NUTRIENT REMOVAL LEVEL TREATMENT IS MORE COST-EFFECTIVE FOR NITROGEN REMOVAL THAN UPGRADING THE INDIVIDUAL ONSITE SEWAGE DISPOSAL SYSTEM; OR

B. THE INDIVIDUAL REPLACEMENT OF THE ONSITE SEWAGE DISPOSAL SYSTEM IS NOT FEASIBLE;

3. THE PROJECT IS CONSISTENT WITH THE COUNTY’S COMPREHENSIVE PLAN AND WATER AND SEWER MASTER PLAN;

4. THE ONSITE SEWAGE DISPOSAL SYSTEM WAS INSTALLED AS OF OCTOBER 1, 2008, AND THE PROPERTY THE SYSTEM SERVES IS LOCATED IN A PRIORITY FUNDING AREA, IN ACCORDANCE WITH § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

5. THE LOCAL GOVERNMENT HAS ADOPTED A POLICY OR PROCEDURE THAT WILL GUARANTEE THAT ANY FUTURE CONNECTION TO AN EXISTING MUNICIPAL WASTEWATER FACILITY THAT IS FUNDED UNDER PARAGRAPH (2)(1)E OF THIS SUBSECTION WILL MEET ALL OF THE REQUIREMENTS UNDER THIS SUBPARAGRAPH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.